

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Telephone Number Portability

CTIA Petitions for Declaratory Ruling on
Wireline-Wireless Porting Issues

CC Docket No. 95-116

COMMENTS OF BELLSOUTH CORPORATION

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BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc. (collectively “BellSouth”), respectfully submits these comments on the *Further Notice of Proposed Rulemaking* (“*FNPRM*”) in the above-captioned proceeding.¹

I. INTRODUCTION AND SUMMARY

On November 10, 2003, the Commission released its eagerly anticipated order addressing several issues regarding the porting of telephone numbers between wireless and wireline carriers, also known as intermodal porting.² In that order, the Commission clarified the circumstances in which a wireline carrier is required to port a number to a wireless carrier. In addition, the Commission declined to adopt a mandatory porting interval for wireline-to-wireless ports. In the companion *FNPRM*, the Commission sought comment on two specific proposals: (1) porting

¹ See *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, FCC 03-284 (rel. Nov. 10, 2003) (“*Memorandum Opinion and Order*” and “*FNPRM*”).

² *Id.*

from a wireless carrier to a wireline carrier where the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer;³ and (2) reducing the interval for intermodal porting.⁴

Both of these issues have been the subject of intense debate over the last eight years. The first proposal identified above leads to a situation commonly referred to as “rate center disparity.” There has been extensive work done by the industry to address this issue to no avail. Similarly, there is a long history of efforts taken to develop a porting interval that would satisfy the needs of both wireline and wireless carriers – again with no final resolution. Indeed, many of the questions raised in the *FNPRM* are the very same ones that have been asked and, in some cases, answered, in a series of reports on intermodal porting dating back as far as 1998.⁵ For example, the January 20, 1998 Report from the Wireless Wireline Integration Task Force discusses in detail the differences between wireline and wireless rating, calling areas, and number assignment.⁶ In addition, this report posed the question whether the differences in the scope of porting capabilities between wireless and wireline carriers create a competitive

³ *FNPRM*, ¶¶ 42-44.

⁴ *FNPRM*, ¶¶ 49-51.

⁵ See Report from Wireless Wireline Integration Task Force to the North American Numbering Council, Rate Center Issue (Jan. 20, 1998) (“Rate Center Report”); North American Numbering Council, Local Number Portability Administration Working Group, Wireless-Wireline Service Provider Portability Rate Center Discussion (Feb. 27, 1998) (“LNPA Working Group Rate Center Discussion”); North American Numbering Council, Local Number Portability Administration Working Group Report on Wireless Wireline Integration (May 8, 1998) (“1st Wireless Wireline Integration Report”); North American Numbering Council, Local Number Portability Administration Working Group, 2nd Report on Wireless Wireline Integration (June 10, 1999) (“2nd Wireline Wireless Integration Report”).

⁶ Rate Center Report at 2-4, Sections 1.1-2.4; see also LNPA Working Group Rate Center Discussion at 1-3.

disadvantage.⁷ Finally, the report identified a number of alternatives to resolve rate center disparity and explained the advantages and disadvantages of each.⁸

The industry also has done extensive work on the issue of porting intervals for intermodal porting. As the various NANC Wireless Wireline Integration Reports indicate, a four-day interval was negotiated and reflects the time necessary to update records in the various wireline operations support systems (“OSS”) that are impacted when a number is ported.⁹ In addition, this agreed-upon timeframe was designed to account for the variations in the complex systems and processes across the wireline industry.¹⁰

Clearly, the issues before the Commission are not new. Nevertheless, they remain difficult to resolve due to the significant implications. Accordingly, BellSouth urges the Commission not to rush to judgment in rendering a decision. These issues have been around for the past decade, and there is no reason to act hastily at this point, given that wireless local number portability (“WLNP”) is proceeding today.

The Commission must give careful and complete consideration to the technological, financial, and competitive consequences of its proposals. BellSouth submits that a reasonable examination of the facts will prove that the costs associated with the Commission’s proposals far outweigh the benefits at this point in time. As demonstrated more fully herein, wireless-to-wireline porting across rate centers and shortening the porting interval would require significant and costly network modifications. Moreover, the lower-than-anticipated volume of intermodal

⁷ Rate Center Report at 7, Section 8.0.

⁸ Rate Center Report at 8, Appendix A.

⁹ *See, e.g.*, 1st Wireless Wireline Integration Report at 11, § 3.3.2.5; 2nd Wireless Wireline Integration Report at 7-8, § 3.3.

¹⁰ 1st Wireless Wireline Integration Report at 10, § 3.3.2.4.

porting lends support to the conclusion that the consumer benefits associated with porting the relevant subset of numbers does not justify requiring carriers to undertake extensive network upgrades and incur additional costs. Accordingly, the Commission should not require a wireline carrier to port in a number from a wireless carrier if that number is not associated with the rate center in which the wireline carrier intends to offer service. In addition, the Commission should not reduce the porting interval for intermodal porting.

II. THERE ARE SIGNIFICANT TECHNICAL IMPEDIMENTS AND IMPLEMENTATION COSTS ASSOCIATED WITH WIRELESS-TO-WIRELINE PORTING WITHOUT RATE CENTER RESTRICTIONS.

Requiring a wireline carrier to port in a number from a wireless carrier when there is a mismatch between the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer would necessitate costly and extensive modifications to wireline carriers' networks and OSS. In the absence of these necessary network and system upgrades, it is not technically feasible for a wireline carrier to port in a number from a wireless carrier if the rate center from which the number is assigned and the rate center from which the wireline carrier seeks to offer service are different.

Although there is debate regarding whether requiring wireless-to-wireline porting without rate restrictions constitutes location portability,¹¹ one thing is clear – the technical changes

¹¹ Location portability is defined as “the ability of users of telecommunications service to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another.” *Telephone Number Portability*, CC Docket No. 95-116, RM 8535, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8443, ¶ 174. (1996) (“*First Report*”). The Number Resource Optimization Report defines location portability as “the ability of a subscriber to retain a TN when moving outside the current rate area while the TN takes on the characteristics of the new rate area.” Number Resource Optimization Working Group, *Modified Report to The North American Numbering Council on Number Optimization Methods* at 139, Section 7.1 (Oct. 20, 1998) (“NRO Report”).

necessary to provide this capability are extensive. The Commission expressly declined to require carriers to provide location portability when it adopted the number portability obligations in 1996.¹² The Commission concluded that “telephone subscribers must change their telephone numbers when they move outside the area served by their current central office.”¹³

For wireline carriers, the technical impediments associated with requiring wireless-to-wireline porting when the location of the wireline service facilities do not match the rate center from where the wireless number is assigned are the same technical challenges that must be overcome to implement location portability. Thus, even if hairs are split over the official name for the type of porting the Commission is considering, the technical challenges remain the same.

These technical hurdles are well documented. As explained in the NRO Report, location portability would likely require modifications to a number of carrier OSS. These modifications might include the possible replacement of industry billing and rating mechanisms; switching, signaling, and support system modifications; and changes to LNP databases.¹⁴ Clearly, adoption of the Commission’s proposal would require extensive network changes across the industry.

In evaluating the Commission’s proposal, BellSouth made the following assumptions. First, porting outside the rate center would apply only to intermodal porting. Second, billing and rating would continue to occur based upon the digits dialed as is done today. Third, telephone numbers (*e.g.*, both NXXs and thousands blocks) would continue to be assigned on a rate center basis. Finally, porting outside the rate center would not extend beyond the LATA.

¹² *First Report*, 11 FCC Rcd at 8447-49, ¶¶ 181-87.

¹³ *Id.* at 8443, ¶ 174. Similarly, the Commission also refused to require service portability – “the ability of users of telecommunications services to retain existing telecommunications numbers . . . when switching from one telecommunications service to another service.” *Id.* ¶ 172.

¹⁴ NRO Report at 139, Section 7.1.

As discussed more fully below, the implementation of wireless-to-wireline porting across rate centers would require extensive modifications to carrier networks. The following descriptions of the types of network elements and OSS impacted is not comprehensive (nor are they intended to be). Given the absence of technical requirements for wireless-to-wireline porting without rate center restrictions, BellSouth developed the above set of assumptions to enable its subject matter experts to conduct an initial assessment within a short timeframe. BellSouth's intent is to give the Commission an idea of the types of modifications that would be required and the types of systems potentially impacted. BellSouth's assessment is contingent upon the assumptions made above and will change if the assumptions are modified.

The provision of wireless-to-wireline porting outside the LEC rate center will impact the following areas within BellSouth:

A. Network Elements

Expanding WLNP to allow porting outside the LEC rate center will result in an increased number of ports. This greater quantity of ports will impact existing LNP network elements that are engineered based upon capacity and performance parameters. For example, a substantial increase in the quantity of ported numbers will likely require the addition of capacity for those network elements that maintain records for number portability (*e.g.*, Service Control Points). In addition, the software that validates each stored record of a port may have to be modified. Also, it is possible that the BellSouth systems interfacing with the Number Portability Administration Center ("NPAC") could be impacted by the increased porting volume.

B. Operations Support Systems ("OSS")

The BellSouth OSS associated with the following functions would require enhancements to allow wireless-to-wireline porting across rate centers.

1. Provisioning

Systems that support service order processing or Local Service Request ("LSR") processing for number portability would be impacted by a requirement to port without rate center restrictions. For example, BellSouth would have to modify the rate center logic used by its OSS to validate requests for LNP. Currently, BellSouth's systems will reject a request to port a number to BellSouth if the subscriber's location (identified by the service address) is not associated with the rate center of the telephone number. In addition, ordering systems use the telephone number/rate center association to determine a customer's eligibility for specific products and services. If porting outside the rate center were allowed, these ordering systems would have to be modified.

Finally, depending upon the scope of porting outside the rate center, directory listings potentially could be impacted. BellSouth publishes telephone directories based upon geographic area. In other words, local and statewide directories include numbers from the same or neighboring NPAs. Porting across rate centers could result in telephone numbers being omitted from or misassigned to directories.

2. Billing

Today, local and toll calls are rated based upon the "To" NPA/NXX and "From" NPA/NXX. Allowing ports across rate center boundaries would eliminate BellSouth's (or any carrier's) ability to rate a call based on the true location of a customer. Therefore, BellSouth would have to develop new rating and billing requirements in order to rate and bill calls to numbers that have been ported across rate centers that are no longer in the same calling area. In the absence of modifications to the billing systems, calls would continue to be billed based on digits dialed thereby leading to incorrect billing and customer confusion.

3. Repair

The association between a telephone number and a specific rate center is vital information that repair center systems and personnel currently use to screen, test, and resolve customers' troubles. Often the repair center is the customer's first point of contact with customers frequently reporting billing issues and service problems to these centers. Porting across rate centers could impact whether the existing customer information used by the repair center are adequate to resolve problems given that the rate center can no longer be used to determine the customer's location. Additional information such as service address may be needed to ensure that BellSouth's systems and personnel can properly screen and test customer troubles. BellSouth would have to modify its repair systems to capture any required additional customer information.

4. E911

Emergency service systems also would require extensive modifications to support intermodal porting without rate center restrictions. E911 calls are routed based upon the ten-digit number (NPA-NXX-XXXX) of the subscriber dialing E911. In many instances, only the NPA-NXX (*i.e.*, the first six digits of the calling party's ten-digit number) is used for routing. Allowing ports across rate centers would eliminate the ability to accurately default route an E911 call based upon the presumed traditional location of the calling party. Default routing is an inherent part of the nation's E911 system and is intended to allow an E911 call to reach the correct Public Safety Answering Point ("PSAP") or one very nearby. If porting without rate center restrictions is allowed, this inherent failsafe mechanism is lost.

Additionally, porting across rate centers would result in the need for modifications to the nation's E911 systems. Today, E911 calls are converted from ten digits to eight digits due to the signaling limitations of PSAP equipment. These limitations restrict the ability to convert calls for a maximum of four NPAs. The expansion of intermodal porting to allow porting across rate centers would require many PSAPs to modify and/or upgrade their equipment to support the introduction of more NPAs in a PSAP's territory. In order to support more than four NPAs, PSAP equipment would have to be modified to receive the entire ten-digit number of the calling party. In light of the above, before the Commission finalizes any decision regarding intermodal porting across rate centers, BellSouth recommends that the Commission's LNP and E911 subject matter experts discuss in detail the E911 implications and seek input from the National Emergency Number Association ("NENA").

The necessary modifications identified above (and those yet to be determined) will require substantial funding as well as time to design and implement. In the absence of detailed requirements and a uniform assumption set, however, detailed costs cannot be determined at this stage. Much like the early days of WLNP, carriers were unable to assess the complete magnitude of costs because of the lack of standards and requirements.¹⁵

Notwithstanding the absence of detailed requirements, BellSouth's initial assessment (based upon the assumptions outlined above) is that the changes necessary to facilitate wireless-to-wireline porting across rate centers would result in costs that, at a minimum, are equivalent to the costs incurred to implement wireline service provider portability.¹⁶ This assessment is

¹⁵ See BellSouth Corporation Petition for Declaratory Ruling and/or Waiver, CC Docket No. 95-116, at 9-11 (filed Nov. 14, 2003).

¹⁶ For BellSouth, the costs to implement wireline local number portability were approximately \$440 million.

consistent with the conclusion reached by the Wireless Wireline Integration Task Force when it considered location number portability. The Task Force found that the implementation of location portability would be “an enormous undertaking[,] which could be at least as large in scope, complexity, and cost as service provider portability.”¹⁷

C. Consumers

It also is important that the Commission not ignore the consumer impact of requiring ports without rate center restrictions. If the Commission were to adopt such a requirement, consumers would have to be educated about potential changes in calling scopes as well as billing. For example, consider the situation where customer 1 has a telephone number from an NPA-NXX associated with rate center A and lives next door to customer 2. Now, let's assume customer 2 (who also resides in rate center A) has a telephone number from an NPA-NXX that is associated with rate center B because customer B previously ported his telephone number across rate centers. If rate center A and rate center B are not in the same local calling area, customer confusion will mostly likely ensue. For example, if customer 1 calls customer 2, customer 1 would expect this call to be local since he is calling his next door neighbor. However, if the call is rated strictly on dialed digits, customer 1 will be charged a toll rate for the call since the NPA-NXX of the dialed call is associated with rate center B, which is not in the same local calling area. In this instance, customer 1 is confused or angry because he is billed a toll rate to call his next door neighbor.

If billing system modifications were made to allow the call from customer 1 to customer 2 to be rated as a local call, when customer 1 (or any other customer in rate center A) calls customer 2, the call will be billed as a local call. However, calls originated by customer 1 to

¹⁷ Wireless Wireline Integration Task Force Rate Center Issue Position Paper, North American

other subscribers with the same NPA-NXX as customer 2 may be billed as toll calls since the calls may be to subscribers in rate center B. Again, customers will be confused because of the difficulty determining when a call may be local or toll.

Finally, if the Commission were to require intermodal porting across rate centers, changes to dialing patterns (seven-digit local vs. ten-digit local) might be necessary depending upon the scope of the porting requirement. These dialing changes also would necessitate consumer education efforts.

Assume that the NPA-NXX combination "504-123" is associated with rate center 1 and that the NPA-NXX combination "318-123" is associated with rate center 2. Rate center 1 and rate center 2 are adjacent. If porting across rate centers were allowed, it might be possible for a telephone number from the "504-123" NPA-NXX combination to be ported to a customer residing in rate center 2. Because the "318-123" NPA-NXX combination is associated with rate center 2, there could very well be another customer in rate center 2 with an assigned telephone number from the "318-123" NPA-NXX combination. Thus, the customer who ported in the telephone number from rate center 1 would have a number with the format 504-123-XXXX, while a second customer in rate center 2 could have a number with the format 318-123-XXXX. In other words, two customers in the same rate center could have the same seven-digit telephone number, in this situation, 123-XXXX. The result is that a caller in rate center 2 would need to dial ten digits to distinguish between the two subscribers in rate center 2 that have the same seven-digit telephone number. Seven-digit dialing would not provide sufficient routing information to enable carrier's networks to determine where to terminate the call. Again, not

Numbering Council, at 6 (Jan. 20, 1998).

only would carriers need to modify their networks to accommodate ten-digit dialing but also consumers would have to be educated about potential changes in dialing patterns.

As demonstrated above, allowing porting without rate center restrictions would have a significant impact on billing, rating, and dialing patterns, which, in turn, would cause customer confusion and frustration. Clearly, any expansion of the LNP obligations to require porting across rate centers must include a consumer awareness and education component.

* * *

In conclusion, porting from a wireless to wireline carrier when the rate centers do not match is not technically feasible at this time. To accommodate such porting, wireline carriers would have to implement various systems and process changes. Presently, consumer demand for intermodal porting is not high enough to justify the additional expenditure and burdens associated with a complete overhaul of the wireline rate center paradigm. Volumes for intermodal porting have been much lower than originally anticipated. In other words, the benefits associated with offering wireless-to-wireline porting without rate center restrictions do not outweigh the costs required to upgrade carrier systems. Until adequate market demand exists to warrant such a significant undertaking, the Commission should not mandate wireless-to-wireline porting across rate centers.

III. THE COMPETITIVE DISPARITY ASSOCIATED WITH INTERMODAL PORTING CAN BE REDUCED WITHOUT REQUIRING WIRELESS-TO-WIRELINE PORTING ACROSS RATE CENTERS.

The competitive disparity associated with intermodal porting has been recognized for some time. The May 8, 1998 Wireless Wireline Integration Report expressly states that “[t]he difference in porting capabilities between wireless and wireline service providers with the

existing method/architecture *creates a significant competitive disadvantage to wireline service providers.*¹⁸ Even the Commission acknowledges that, under the current Commission WLNP rules, “wireline carriers may have fewer opportunities to win customers through porting.”¹⁹ The Commission can minimize the adverse competitive impact on wireline carriers without requiring wireless-to-wireline porting across rate centers. As demonstrated below, less costly and burdensome alternatives are available.

One way to ensure the ability of a wireless subscriber to port a number to a wireline carrier is to require wireless carriers to assign numbers to their customers from NXXs that are associated with the customer’s physical location. This approach is the only way to reduce the competitive disparity on a going-forward basis.

Under this framework, a wireless carrier would have to have an NXX or, 1K blocks, for each rate center in which it offers service. In 1998, the NANC did not recommend this option because of the impact on NPA exhaust and the fact that there was no technical need for this restriction from the routing or rating perspective of a wireless carrier.²⁰ However, NPA exhaust is no longer an imminent concern. The decline in the volume of carriers seeking numbers combined with the actions taken by the Commission to ensure the efficient use of numbers (*e.g.*, thousands-block pooling; reporting and assignment requirements)²¹ have alleviated this concern.

¹⁸ 1st Wireless Wireline Integration Report at 42 (emphasis added).

¹⁹ *FNPRM*, ¶ 27.

²⁰ *See* Rate Center Report at 8, Appendix A.

²¹ *See* Numbering Resource Optimization, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (“NRO Report and Order”); Numbering Resource Optimization, CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 16 FCC Rcd 306 (2000) (“NRO Second Report and Order”); Numbering Resource Optimization, CC Docket Nos. 99-200, 96-98, and 95-116, Third Report and Order and Second Order on Reconsideration in CC

Moreover, adopting this requirement would prevent wireless carriers from assigning numbers in such a way as to intentionally limit a subscriber's ability to port to a wireline carrier. For example, a prospective wireless customer requesting new service from a wireless carrier may physically live in a rate center that is associated with one of the wireless carrier's assigned NXXs. However, the wireless carrier is not required to assign a telephone number from the NXX that is associated with the rate center of the physical residence or business of the perspective customer. In fact, under the Commission's existing rules, the wireless provider has the incentive to assign the number from a rate center not associated with the physical location of the customer, because such an action will make it infeasible to port the number to a wireline carrier at this point in time.

The Commission could eliminate this threat to competition by requiring wireless carriers to obtain NXXs or 1K blocks of telephone numbers in rate centers where they offer service (and in which WLNP is available). Or, at a minimum, wireless providers should be required to check to see if NXXs assigned to them are associated with the same rate center as the physical location of the prospective customer.

For example, assume a wireless carrier has telephone numbers available for assignment that are associated with rate centers A, B, and C. If a prospective customer requests service from the wireless carrier, that carrier should determine if the residence or business of the customer is physically located in those rate centers from which the carrier has been assigned numbers (in this case, either rate center A, B or C). If so, then the first choice for assigning a telephone number should be a number from the same rate center associated with the physical location of the

Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252 (2001); Numbering Resource Optimization, CC Docket Nos. 99-200, 96-98, and 95-116, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200,

customer's residence or business. This requirement will mitigate some of the competitive disparity facing wireline carriers under the Commission's current WLNP rules. Without this straightforward requirement, wireless carriers can purposely make assignments to new customers in such a manner as to make it difficult for the customer to port to a wireline carrier if, in the future, he desires to do so.

Rate Center Consolidation. Rate center consolidation, in some instances, may be another alternative to requiring wireless-to-wireline porting across rate centers, so long as it is revenue-neutral. Revenue-neutral rate center consolidation is technically feasible. Moreover, if implemented to include rate centers in which wireless carriers have numbers, rate center consolidation could reduce rate center disparity. Combining rate centers in which wireless carriers have been assigned numbers would help ensure that wireless subscribers are able to port numbers to wireline carriers by expanding the geographic area of a rate center. Despite this potential benefit, rate center consolidation has limited application due to state reluctance to modify the rating of calls given the revenue impact on providers, the confusion experienced by consumers, and the E911 implications of expanding rate center boundaries.

Foreign Exchange/Virtual FX. In considering alternatives, the Commission asks for comment on the extent to which wireline carriers can serve customers with numbers ported from wireless carriers using a Foreign Exchange ("FX") or virtual FX service.²² FX and virtual FX are not appropriate solutions to reduce the competitive implications of rate center disparity. BellSouth's FX service allows a subscriber located in a particular exchange area to receive a telephone number with an NXX code that is associated with a different exchange area. With the

and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, 17 FCC Rcd 4784 (2002) ("NRO Third Order on Reconsideration").

²² FNPRM, ¶ 44.

FX service, a customer dials a number that appears to be local. The call is transported to the customer's serving wire center. The switch looks at the number and, based upon the translations for the number, it sends the call to the "foreign exchange" where the customer being called resides.

Today, BellSouth recovers the costs for this service from its customers. The originating customer pays for the local portion of the call, and the FX customer pays BellSouth to terminate the call in a different local calling area. Thus, FX service does not mitigate or eliminate the competitive disadvantage facing wireline carriers because the LEC will need to recover additional costs from the customer for the provision of FX service. In fact, the use of FX would increase the competitive disparity because it would serve as a financial disincentive for a wireless customer to port a number to a wireline carrier. Thus, the use of the FX service is not a competitively neutral option.

Moreover, FX is not a suitable solution because there are inherent public safety issues associated with this service. With FX, the PSAP serving the carrier's switch may not be the same PSAP serving the customer's physical location. This mismatch may result in delayed response time for an emergency call.

With respect to virtual FX, as an initial matter, the Commission never defines precisely what it means by "virtual FX." Virtual FX can have different meanings. For example, is virtual FX the same as, or similar to, virtual NXX? If so, the issues associated with virtual NXX are well documented. A virtual NPA/NXX is a central office code assigned to a rate center in which the code holder has no physical facilities.²³ As the Commission is fully aware, there are on-

²³ The Commission defines virtual NXX codes as "central office codes that correspond with a particular geographic area that are assigned to a customer located in a different geographic area." *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Notice of Proposed Rulemaking*, 16 FCC Rcd 9610, 9652, n.188 (2001) ("*Intercarrier Compensation*

going debates regarding the rating and routing issues surrounding the use of virtual NXX.²⁴ The use of virtual NXXs to address rate center disparity should not be considered until the Commission resolves the pending intercarrier connection and compensation issues.

Perhaps more importantly, virtual NXX will not solve the issues associated with rate center disparity. Virtual NXX allows a carrier to serve customers in an NXX where it has no physical facilities. The NXX is designated to a rate center and looks to the customer like it is in that particular rate center. In other words, calls are rated and billed as if they were in a particular rate center, and the rate center boundaries are observed when the numbers are assigned. Calls, however, are actually routed through a switch located in another rate center.

If numbers were ported across rate center boundaries, the end user would see a difference. Calls to and from neighbors might be billed as toll calls, while calls to and from subscribers in the rate center where the number is actually assigned would be rated and billed as local calls even though they are from a rate center miles away (intraLATA toll).

Consider the following example. Assume an NXX is physically served from a switch in rate center A. However, the virtual assignment for this NXX is rate center B. All number assignments for this NXX are made from rate center B; thus, rate center boundaries are observed. If a customer from this NXX is allowed to port a number from rate center B to rate center C, rate center integrity is violated. In other words, a number that was virtually assigned to rate center B is now assigned to a customer residing in rate center C. Consequently, the same rating and

NPRM). In other words, a virtual NXX is a NXX that is associated with a particular rate center even though the telephone numbers from the virtual NXX are assigned to subscribers who do not physically reside in the rate center associated with the virtual NXX.

²⁴ *Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92 (filed May 9, 2002); *Inter-carrier Compensation NPRM*, 16 FCC Rcd at 9652, ¶ 115.

billing problems described above will occur with the use of virtual NXX.

In addition to the above explanation, in other instances, virtual FX may be deemed equivalent to intra-company porting across rate centers. If the Commission views virtual FX in this manner, this service would constitute location portability, which poses significant technical challenges as demonstrated above in Section II.

Another option identified by the Commission appears to be requiring wireline carriers to absorb the cost of allowing the customer with a ported number from a wireless provider to maintain the same local calling area that the customer had with the wireless provider.²⁵ This proposal should be rejected as an impermissible intrusion upon state ratemaking authority as well as a violation of Section 252(e) of the Act.

As an initial matter, the Commission lacks the statutory authority to require wireline carriers to mimic the local calling scopes of wireless carriers. States are vested with the power to establish local calling areas and local service rates, and the Commission may not interfere with such authority.²⁶ Any adjustments to local wireline calling areas would have an impact on the local service rates within a state. These decisions are within the sole discretion of the states. Thus, the Commission's suggestion to require a wireline carrier to absorb the costs associated with allowing wireless subscribers to maintain the same local calling area when porting a number to a wireline carrier must be rejected as an impermissible encroachment on states' exclusive authority over intrastate rates.

Another reason wireline carriers should not be required to absorb the cost of customers maintaining wireless local calling scopes is that such a requirement would be a violation of the

²⁵ See *FNPRM*, ¶ 44.

²⁶ See, e.g., 47 U.S.C. §152(b) (excluded from FCC jurisdiction matters regarding "intrastate communication service by wire and radio").

Act's and the Commission's mandate of competitive neutrality. Section 252(e) of the Act requires that "[t]he costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."²⁷ The Commission has interpreted this provision as requiring the agency "to ensure that all telecommunications carriers bear in a competitively neutral manner the costs of providing long-term number portability."²⁸ The Commission established a two-part test to assess competitive neutrality. Specifically, the Commission found that a competitively neutral mechanism: "(1) must not give one service provider an appreciable, incremental cost advantage over another service provider when competing for a specific subscriber, and (2) must not disparately affect the ability of competing service providers to earn a normal return."²⁹ Requiring only one segment of the industry – wireline carriers – to bear the costs of allowing customers to retain wireless local calling scopes fails to satisfy this test. Accordingly, the Commission may not require wireline carriers to shoulder the costs associated with matching the calling scopes of wireless carriers when porting in numbers from wireless carriers.

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In conclusion, wireless-to-wireline porting outside the wireline rate center is equivalent to location portability and should not be required. As demonstrated above, the benefits do not outweigh the costs, especially in light of the minimal consumer demand for intermodal porting.

²⁷ 47 U.S.C. § 251(e)(2).

²⁸ *Telephone Number Portability*, CC Docket No. 95-116; RM 8535, *Third Report and Order*, 13 FCC Rcd 11701, 11706, ¶ 8 (1998).

²⁹ *Id.* at 11731-32, ¶ 53.

The system changes necessary to accommodate such portability are costly and time-consuming, and less costly and burdensome alternatives exist.

As demonstrated above, steps can be taken to eliminate or reduce the anticompetitive implications of rate center disparity; however, any Commission actions should not introduce new competitive concerns or ignore the existing disparity. As such, BellSouth urges the Commission, at a minimum, and where possible, to require a wireless carrier to assign a number to a customer from NXXs that match the physical location of the customer. In addition, the Commission should not require the use of FX and virtual FX; these services introduce new concerns and are not viable solutions. Finally, BellSouth supports encouraging states to consider revenue-neutral rate center consolidation involving rate centers where wireless carriers have numbers.

IV. THE COMMISSION SHOULD NOT REDUCE THE PORTING INTERVAL FOR INTERMODAL PORTING.

The Commission should not shorten the current wireline porting interval to accommodate intermodal porting in the absence of a demonstrated need. No evidence exists to show that the current four-day porting interval is hindering intermodal porting. During these first few months of WLNP deployment, even wireless carriers have had difficulty meeting the 2 ½ hour interval recommended by the wireless industry.³⁰ Problems also have arisen in the context of intermodal porting. In some instances, there has been some difficulty achieving the four-day interval for intermodal ports.

³⁰ See Paul Kirby, *FCC Officials Say They're Pleased with Deployment of Wireless LNP*, Telecommunications Reports Daily, Jan. 15, 2004, available at <http://www.tr.com/online/trd/2004/td011504/index.htm> ("Since the FCC's wireless LNP rules took effect Nov. 24, some consumers and consumer advocates have complained about delays in porting numbers."); Peter J. Howe, *Rocky Start for Number Portability*, TechNewsWorld, Dec. 29, 2003, available at <http://www.technewsworld.com/perl/story/32485.html>.

For example, BellSouth has experienced intermodal porting problems due to inadvertent ports. This problem occurs when the service provider receiving the new customer begins the porting process without the receipt of a firm order confirmation ("FOC") from BellSouth. BellSouth has received many notifications from the NPAC of pending ports to wireless service providers for which BellSouth does not have a matching LSR or for which BellSouth has not sent back a FOC. When this situation occurs, BellSouth sends a conflict message to the NPAC, which, in turn, informs the new service provider of the conflict. At this point, the old and new service providers should contact each other to resolve the issue. However, if the port is processed by the new service provider without resolving the conflict, then the ported customer is impacted because the old service provider does not disconnect the customer within the latter's network because the latter has either not received a LSR or has not yet returned a FOC.

The situation described above appears to be a problem limited to intermodal ports between BellSouth and wireless service providers that use a third-party vendor to handle the LSR and FOC exchange. Although the third-party vendor may handle the LSR/FOC exchange, the wireless service provider sends the message to the NPAC to begin the porting process. BellSouth suspects that there have been communications breakdowns between some wireless service providers and their third-party vendors about whether the vendor has received a FOC from BellSouth. It appears that the wireless service providers begin the porting process without a FOC. The new service provider should not send a message to the NPAC until it confirms that a FOC has been received. Apparently, this problem is not unique to BellSouth.

Another type of problem has arisen when a wireless customer seeks to port a number to BellSouth. In this situation, BellSouth sends a LSR to the wireless service provider or its third-party vendor informing it of the pending port. Because of the separation between BellSouth's

retail and wholesale operations, BellSouth requests that the FOC be sent to the retail side of the business. This information appears on the LSR and is valid. An issue arises because some third-party vendors used by wireless service providers cannot recognize a second location for sending FOCs, even though such information is valid. Consequently, the FOC is often sent to the incorrect location within BellSouth thereby causing a delay in the porting process.

Both carriers and the Commission anticipated that issues and problems would arise with WLNP just as they arose with the introduction of wireline porting. However, until these issues are resolved or minimized and evidence exists that there is a true need to reduce the porting interval, BellSouth believes it premature to modify the interval for intermodal porting.

If the Commission decides to modify the porting timeframe for intermodal porting, it must make an informed decision based on facts, not speculation. For example, while it may be possible to process simple LNP ports in less than four days if the LSR is fully mechanized, error-free and the firm order confirmation is received in less than 24 hours, the interval for complex ports cannot be shortened. Complex ports are project-managed and, as such, additional coordination between carriers does not lend itself to a shortened porting timeframe.

BellSouth systems that handle LNP processes are currently designed to meet the interval standards prescribed in Section 52.26(a)³¹ of the Commission's rules. However, shortening the interval to less than three business days from the firm order confirmation would require changes to BellSouth's OSS. At this time, BellSouth has identified at least two systems that would require modifications if the porting interval was shortened to less than four days. These systems

³¹ 47 C.F.R. § 52.26(a).

are LNP Gateway³² and Due Date Calculator ("DDC").³³ A more detailed analysis and additional time are required to determine if other systems will be impacted.

The Commission should modify the porting interval only if there is a demonstrated need and the benefits outweigh the costs. Presently, however, there is not a compelling need and the costs associated with the extensive system modifications that would be required far outweigh the benefits. Moreover, there is no evidence to date that the four-day interval is hindering intermodal porting.

It is both reasonable and appropriate for a wireless carrier (or a retail wireless dealer) to explain to an individual seeking to port a telephone number that it could take up to four days to complete the process. Of course, if the port involves only wireless carriers, the reality is that the customer could have his number ported within two and a half hours. Notwithstanding this fact, that customer would have been on notice that the process could have taken longer.

Moreover, customers that choose to switch service providers typically do so because of lower prices, better service quality, or overall customer dissatisfaction with the current provider. It is highly unlikely that a four-day processing interval would dissuade a customer potentially seeking lower rates from porting his number. Clearly, customers are taking advantage of the ability to port, as is evidenced by the number of wireline end users that have ported their numbers since the commencement of portability in 1999. In BellSouth's nine-state region, approximately 2.4 million numbers have been ported away from BellSouth to competitors. On average, the quantity of numbers ported from BellSouth has doubled annually over the past five

³² The LNP Gateway interfaces with the NPAC. The LNP Gateway processes LNP messages between BellSouth and the NPAC and coordinates and tracks LNP messages, service orders, and LSR and FOC activity.

³³ DDC determines service due dates for any service that can be ordered electronically and is used in both the Pre-Order and Firm-Order processes to determine when a service can be delivered.

years. Thus, there is no evidence that the four-day interval is such a detriment to intermodal porting that a shorter interval is warranted. Again, the benefits do not outweigh the costs.

In addition, shortening the porting timeframe for intermodal porting would increase the costs associated with implementing wireless number portability. Requiring carriers with networks of different sizes and comprised of different systems to undergo extensive modifications to shorten the porting interval would be a significant financial commitment. And, the adoption of such an obligation would necessitate appropriate cost recovery.³⁴

In sum, the Commission should retain the current four-day interval for intermodal porting. Low consumer demand for intermodal porting, current porting difficulties facing many carriers, and the extensive network upgrades necessary to shorten the porting interval all support a finding that the costs and burdens of reducing the interval far outweigh the benefits.

V. CONCLUSION

The issues on which the Commission is seeking comment – intermodal porting across rate centers and modifying the porting interval – are not new. Indeed, these issues have a long history and are extremely complicated. BellSouth therefore urges the Commission not to make a rush decision. The Commission must give careful and complete consideration to the technological, financial, and competitive consequences of its proposals. As demonstrated more fully herein, a reasonable examination of the facts will prove that the costs associated with the Commission's proposals far outweigh the benefits at this point in time. Accordingly, the Commission should not require a wireline carrier to port in a number from a wireless carrier if

³⁴ BellSouth's pending petition for declaratory ruling requests authority to recover the costs incurred to implement WLNP. The costs estimates provided in that petition do not include any additional costs associated with modifying the porting interval for intermodal porting. If the Commission were to shorten the interval, BellSouth's WLNP costs would increase.

that number is not associated with the rate center in which the wireline intends to offer service.

In addition, the Commission should not reduce the porting interval for intermodal porting.

Respectfully submitted,

BELLSOUTH CORPORATION

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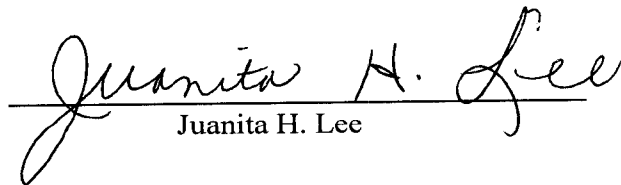
January 20, 2004

CERTIFICATE OF SERVICE

I do hereby certify that I have this 20th day of January 2004 served the following parties to this action with a copy of the foregoing **COMMENTS OF BELL SOUTH CORPORATION** by electronic mail addressed to the parties listed below.

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